

The background of the page features the Falkirk Council Coat of Arms, which is a shield divided into four quarters. The quarters contain a castle tower, a stag's head, a ship, and a lion. Above the shield is a crown with four fleurs-de-lis. Below the shield is a banner with the motto 'Ane for a'.

## **Agenda Item 5**

**THE FALKIRK COUNCIL (ON-STREET  
PARKING SPACE FOR DISABLED  
PERSONS)(REVOCAION NO. 637)  
ORDER 20\_\_ - MUIR STREET,  
STENHOUSEMUIR**

**FALKIRK COUNCIL**

**Subject: THE FALKIRK COUNCIL (ON-STREET PARKING SPACE FOR DISABLED PERSONS)(REVOCATION NO. 637) ORDER 20\_\_ - MUIR STREET, STENHOUSEMUIR**

**Meeting: PLANNING COMMITTEE**

**Date: 23 January 2020**

**Author: DIRECTOR OF DEVELOPMENT SERVICES**

**Ward: Carse, Kinnaird & Tryst (4)**

**Local Members: Councillor Gary Bouse  
Councillor Joan Coombes  
Councillor Jim Flynn  
Councillor Laura Murtagh**

**Community Council: Larbert, Stenhousemuir and Torwood Community Council**

**Council Officer: Russell Steedman – Network Co-ordinator**

**1. INTRODUCTION**

1.1 This report seeks a decision on The Falkirk Council (On-Street Parking Space for Disabled Persons)(Revocation No. 637) Order 20\_\_, the purpose of which is to remove the disabled persons parking space outside 5 Muir Street, Stenhousemuir. In terms of the Council's Scheme of Delegation, this decision requires to be made by Committee as unresolved objections have been received to the making of the Order. In terms of the relevant legislation, the authority requires to consider all objections made and not withdrawn before making the Order.

1.2 Members should be aware that it is available to them to call for a hearing on the Order should they find themselves unable to determine whether the Order should be made or not at this stage. Such a hearing would be conducted by an independent reporter appointed by the Council from a list of persons compiled by the Scottish Ministers for that purpose. Members would then, need, to consider their report and recommendation before making a determination.

**2. BACKGROUND**

2.1 Falkirk Council currently provides on-street parking spaces in residential areas, enforceable by virtue of a traffic regulation order, for people with a disability who are in receipt of a Blue Badge and who meet the criteria as laid down in the Disabled Persons' Parking Place (Scotland) Act 2009 (the 2009

Act). When the space is no longer required, a revocation traffic regulation order is required to remove the space ensuring other road users can utilise the area for parking.

2.2 It should be noted that, although a disabled parking place is marked as a result of an application by an individual, any person who legally displays a Blue Badge on their vehicle may park in the bay. The 2009 act requires that a qualifying person residing at the location with a vehicle registered to the address is in use of the space.

2.3 The disabled bay was re-marked as part of the Council's Decriminalised Parking Enforcement preparatory works. Development Services were subsequently contacted by residents to advise that the bay was not required and generally sat empty or with non-blue badge displaying vehicles parked within. Surveys confirmed the bay was not being used in accordance with the Blue Badge scheme and the Disabled Persons' Parking Places Scotland Act 2009.

### **3. PROPOSAL**

3.1 Following the necessary checks against the criteria laid down in the 2009 Act, the statutory procedure for promoting a traffic regulation order to revoke the space was initiated.

3.2 In accordance with Local Authorities Traffic Orders (Procedure) (Scotland) Regulations, 1999, notices of intention were posted on-street and in the local press in the prescribed manner on 25 October 2018.

### **4. CONSULTATION**

4.1 Two objections from the same objector were received in the form of e-mails dated 29 October 2018 anonymised content of the objections and Development Services' responses is attached in Appendix A

4.2 The objections have not been withdrawn.

### **5. CONCLUSION**

5.1 The objectors comments are not considered to satisfy the requirements of the 2009 Act regarding a qualifying person as described in paragraph 2.2.

5.2 This Order was promoted to meet the requirements of the 2009 Act in removing the disabled persons parking space when it is no longer required as defined in aforementioned act.

**6. RECOMMENDATION**

- 6.1 Members are asked to consider the terms of the report including the objections and determine whether the Order should be made.**



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**Director of Development Services**

**Date: 13 January 2020**

Contact Officer: Russell Steedman, Network Co-ordinator      Tel: 504830  
Email: russell.steedman@falkirk.gov.uk

**LIST OF BACKGROUND PAPERS**

The following papers were relied on in the preparation of this report in terms of the Local Government (Scotland) Act 1973:

1. The Falkirk Council (On-Street Parking Space for Disabled Persons)(Revocation No. 637) Order 20\_\_
2. Letters of objection and correspondence

**APPENDIX A**

**OBJECTIONS (ANONYMISED) AND DEVELOPMENT SERVICES RESPONSES**

## OBJECTIONS (ANONYMISED) AND DEVELOPMENT SERVICES RESPONSE

<p>Objection 1 (received 29 October 2018 10:53)</p>	<p>Not too happy that the Falkirk Council have revoked the disabled car space after repainting the disabled car space in Muir Street two months ago. This mean to say that when my disabled niece comes to visit, she has to struggle for a space in Muir Street. Struggle as we usually have a 7.5 ton lorry parked at the end of Muir Street. I wonder what the road traffic reg act 1984 says about that?</p> <p>Regards a concerned council tax payer.</p>
<p>Objection 2 (received 29 October 2018 10:56)</p>	<p>Disabled car parking in Muir Street, just to let you know that I object to the proposed car space being revoked as my disabled niece visits from time to time and it's hard enough to get a car space in Muir Street with all the work vans and 7.5 ton lorry's being parked in the street.</p> <p>P.s. What does your road traffic reg 1984say about that</p> <p>Regards a tax payer</p>
<p>Development Services Response of 12 November 2018 to Objections 1 &amp; 2</p>	<p>I refer to your email objections of 29 October 2018 to the above Traffic Regulation Order.</p> <p>Falkirk Council, when notified that a disabled persons' parking place is no longer required, has a duty to investigate and take appropriate action. I can advise you that the disabled bay outside 5 Muir Street was identified as no longer being required and accordingly, surveys were undertaken to investigate its usage. Surveys identified that the bay either lay empty for long periods of time or was used by vehicles failing to display a blue badge. Accordingly, the statutory legal process was initiated for the removal of the bay.</p> <p>I note your comments regarding the bay being refreshed some two months ago and now being intended to be revoked. I can advise that as part of the Council's preparation for decriminalised parking enforcement, all waiting/loading/unloading and parking restrictions, including disabled bays, were surveyed to identify any marking/signage which required to be replaced/refreshed. The disabled bay marking was refreshed in error and I apologise for any misunderstanding this has caused.</p> <p>I note that you advise that your disabled niece visits from time to time. A disabled bay that lies empty for long periods of time, particularly overnight, is not considered to be in accordance with</p>

regulations and should be removed from the carriageway. Whilst I accept that the presence of the bay may assist your niece when she visits, disabled bays are not intended to be used as visitor bays but are for assisting residents of a street who may, on a regular basis, encounter difficulties parking. The removal of a disabled bay which is not being used in accordance with the relevant Act is considered necessary and appropriate and will return that section of carriageway to general parking for all motorists.

I now refer to your question regarding the parking of 7.5 tonne vehicles on residential streets and would advise as follows. Any vehicle which holds a valid MOT, valid VED (commonly known as road tax), valid insurance and which is not in excess of 3.5 tonnes in weight and is not parked in a dangerous or obstructive manner, is entitled to be parked on the public road. If the vehicle is in excess of 3.5 tonnes in weight it requires to be stored in a location identified in accordance with their operator's licence. Enforcement of the operator's licence is the responsibility of the Driver and Vehicle Standards Agency (DVSA) and you may wish to contact them directly in this regard. The Council has no enforcement responsibilities to address this matter.

In order for Local Authorities to implement traffic regulation orders they must follow a statutory procedure laid down in 'The Local Authorities' Traffic Orders (Procedure)(Scotland) Regulations 1999 as amended. Before making a traffic regulation order the local authority must consider all objections made and not withdrawn.

In view of the above, I would respectfully ask that you withdraw your objection if you are minded to do so. Should you wish to withdraw your objection you can do so by writing to [adteam3.ds@falkirk.gov.uk](mailto:adteam3.ds@falkirk.gov.uk), quoting TRO\18\029.

I would advise that should you decide not to withdraw your objection a report will be placed before the Planning Committee requesting this matter to be determined. Any report will note your comments.